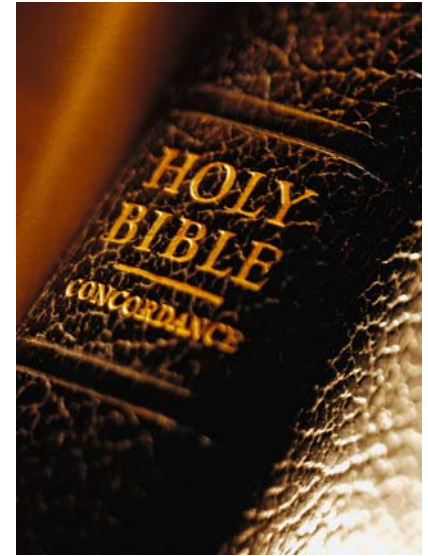




Whether and to what extent religious topics may be taught in public schools is a controversial question that has been debated in communities and litigated in courts in Texas and across the United States. Questions about Texas’ new law on Bible electives, which took effect with the 2009-2010 school year, have further added to the debate. This Know Your Rights (KYR) fact sheet is intended to help parents, students, and communities understand the status of the current law on this topic.



1. THE LAWS

What specific laws govern the role of religion and religious texts in Texas public schools?

- The **First Amendment to the US Constitution**, which says “Congress shall make no law respecting an establishment of religion...”
- Article 1 of the **Texas Constitution**, Section 6, which says “No man shall be compelled to attend, erect or support any place of worship, or human authority ought, in any case whatever, to control or interfere with the rights of conscience in matters of religion and no preference shall ever be given by law to any religious society or mode of worship.”
- **Texas’ Act on Bible electives**, which was passed by the Texas Legislature in 2007 and went into effect with the 2009-2010 school year, permitting—but not requiring—public schools to offer a stand-alone Bible course to students in grades 9-12.ⁱ

2. STUDENTS’ AND PARENTS’ RIGHTS IN GENERAL

Based on these laws, students in Texas public schools and their parents have the following general rights.

Students in Texas have the right to religious freedom and the free exercise of their religious beliefs:

- Students have the right to read the Bible or other religious texts during free time at school, to pray, talk to each other about their religious beliefs, and to wear religious attire to school, like a cross, a yarmulke or a hijab.
- These rights apply to students of all religious beliefs, including Christian, Jewish and the beliefs of other faiths.
- Students also have the right to have no religious beliefs at all.
- Students have the right not to have their schools force any kind of religious beliefs upon them.
- Students do not have the right to force other students, teachers or administrators to share their beliefs.
- Students do not have the right to disrupt the learning environment.

Parents have the right to shape their children’s religious beliefs:

- Parents have the right to raise their children according to their religious beliefs.
- Parents have the right to prevent schools from teaching their children religious beliefs.

3. STUDENTS’ AND PARENTS’ RIGHTS – BIBLE COURSES

What does the Act on Bible electives require schools to do?

- The Act grants Texas public high schools the authority to offer an elective course in the history and literature of the Bible, but does not require that they offer such a course.ⁱⁱ
- The Act grants Texas public high schools the authority to offer an elective course in the history and literature of the Bible, but does not require that they offer such a course.ⁱⁱⁱ

- The Texas Attorney General has said that the Act does require Texas public high schools to offer some instruction on the impact of religious literature—including the Bible—on history and literature. Schools can satisfy the law by including some instruction on this topic in regular English, history, social sciences or other appropriate courses.^{iv}

But I thought Districts were required to offer a Bible elective if 15 or more students requested it. Isn't that true?

- No.^v

What about charter schools?

- The same rules that apply to regular public schools apply to charter schools.^{vi}

What standards apply to Bible courses under the new law?

- All Bible course teachers should have a minor in religion or biblical studies “where practical,” and must complete special training to ensure that they do not violate students’ religious freedom.^{vii} However, the Texas Legislature failed to appropriate funds to pay for the training.
- The State Board of Education developed no curriculum standards, or “TEKS,” to guide school districts in creating Bible course content, instead deciding that Bible courses could follow existing TEKS on Independent Study in English or Special Topics in Social Studies.^{viii} These TEKS do not provide specific guidance to teachers on the appropriate curriculum for a Bible Literacy elective.
- At a minimum, all Bible courses must comply with all state and federal law, including the First Amendment to the U.S. Constitution.^{ix}

When is it constitutional for schools to teach about the Bible, in a Bible course or any course?

- Public schools *can* teach about the Bible in an objective and academic manner, “as part of a secular program of education.”^x For instance, classes may examine the Bible from a literary or historical perspective.
- Public schools *cannot* teach about the Bible when they lack a secular purpose for doing so, the primary effect of the class is to advance religion, or the class fosters excessive entanglement between government and religion.^{xi}
- Private and parochial schools are not bound by the Establishment Clause and can legally teach the Bible as religion. The discussion below applies to public schools only.

How do you know whether the course is being taught in a secular, objective manner?

- Ask yourself, “Does the course teach the Bible or teach *about* the Bible?”^{xii} Theological study of the Bible or other religious texts violates the Establishment Clause, while objective study *about* such texts does not.
- Teachers cannot present religious doctrine to their students as a means of proselytizing or promoting a particular faith, or promoting religion over non-religion.^{xiii}

What religious exercises are prohibited during a Bible course?

- Bible courses may not be equivalent to daily devotional Bible readings.^{xiv}
- The devotional use of prayers or hymns during any Bible course is prohibited.^{xv} Prayers like the Lord’s Prayer must be examined in an objective, academic manner.

Can the Ten Commandments be displayed in a Bible course classroom?

- While the Ten Commandments may be examined “in an appropriate study of history, ethics, civilization, literature, and comparative religion,” posting them on classroom walls without academic context violates the Establishment Clause.^{xvi}

Can Bible courses teach the Bible as if it was literal history?

- No. Bible courses violate the Constitution when they assert a fundamentalist or other sectarian interpretation and are devoid of any discussion of the Bible’s literary quality.^{xvii} They “may not be taught using the Bible as the only source of historical fact...”^{xviii}
- Teaching the Bible, or specific stories like Christ’s resurrection, as literal history conveys a religious message in violation of the Establishment Clause.^{xix}

Can Bible courses mandate the use of a specific Bible translation?

- No. Texas law permits students to choose their own translation of the Bible for courses under the new law.^{xx}
- Forcing students to use a specific translation of the Bible would promote a sectarian view, in violation of the Establishment Clause.

Didn't the Attorney General already decide that Bible courses are constitutional?

- No. The Attorney General has said that, because they expressly require Bible courses to comply with the First Amendment, the TEKS adopted for the Bible course are *facially* constitutional.^{xxi}
- The Attorney General has not approved any commercial or school-developed Bible course curriculum as constitutional.
- Even a constitutional Bible course curriculum can be presented in an unconstitutional way in the classroom.

4. IF YOU THINK YOUR SCHOOL IS VIOLATING YOUR RIGHTS

It is your responsibility to educate yourself about these rights and your privilege to protect and enforce them. Reading this fact sheet is the first step toward protecting your rights!

If you think your rights may have been violated, you should:

- **Write it down!** Keep a record of who said or did what and when. Include every detail – where the incident occurred, who witnessed it, and what happened.
- **Keep a copy!** If you or your parents are concerned with a particular assignment, worksheet, or other school material, make a copy of it so you have a clear record of what bothered you. If you or your parents file a complaint, formally or informally, with a teacher, principal or other school administrator, make sure you keep a copy of the complaint and any response you receive.
- **Ask for help!**
 - If you are a student, you may want to talk through your concerns with a parent or other sympathetic adult.
 - If you need more information, look at the resources listed in the next section.
 - Report your concern to the ACLU by completing our on-line complaint form at www.aclutx.org/projects/legalform.php

5. ADDITIONAL RESOURCES

- **Texas Freedom Network** is a nonpartisan, grassroots organization which strives to protect the religious rights and freedoms of Texans.
<http://www.tfn.org>
- **The First Amendment Center** is a website devoted to educating the public about First Amendment rights as well as reporting on current First Amendment issues.
<http://www.firstamendmentcenter.org/>
- **Americans United for the Separation of Church and State** is a nonprofit educational organization devoted to protecting religious liberty.
<http://www.au.org/>
- **The United States Department of Justice** has launched an initiative to protect religious freedom called *The First Freedom Project*.
<http://www.usdoj.gov/crt/religdisc/firstfreedom.html> or to make a complaint go to:
http://www.usdoj.gov/crt/religdisc/ff_complaint.html



ACLU

AMERICAN CIVIL LIBERTIES UNION
of TEXAS

FOUNDATION

KNOW YOUR RIGHTS

The Bible in Texas Public Schools

ⁱ 2007 Tex. Gen. Laws ch. 856, available at <http://www.lrl.state.tx.us/legis/billChapter/lrlhome.cfm>.

ⁱⁱ Texas Attorney General Opinion No. GA-0657 (Aug. 28, 2008) available at <http://www.oag.state.tx.us/opinions/opinions/50abbott/op/2008/htm/ga-0657.htm>.

ⁱⁱⁱ Texas Attorney General Opinion No. GA-0657 (Aug. 28, 2008); see also Tex. Educ. Code § 28.002(a)(2)(H).

^{iv} Texas Attorney General Opinion No. GA-0657 (Aug. 28, 2008); see also Tex. Educ. Code § 28.011(h).

^v Texas Attorney General Opinion No. GA-0657 (Aug. 28, 2008); Tex. Educ. Code § 12.111(a)(1).

^{vi} Tex. Educ. Code § 28.011(f).

^{vii} 19 Tex. Admin. Code § 74.36(d).

^{viii} Tex. Educ. Code § 28.011(d).

^{ix} *Sch. Dist. of Abington Township v. Schempp*, 374 U.S. 203, 225 (1963).

^x *Herdahl v. Pontotoc County Sch. Dist.*, 933 F.Supp. 582, 593-99 (N.D. Miss. 1996).

^{xi} *Schempp*, 374 U.S. at 306 (Goldberg, J., concurring); *Roberts v. Madigan*, 921 F.2d 1047, 1055 (10th Cir. 1990) (noting “difference between teaching about religion, which is acceptable, and teaching religion, which is not”) (internal quotation marks omitted).

^{xii} *Herdahl v. Pontotoc County Sch. Dist.*, 933 F.Supp. 582, 598-99 (N.D. Miss. 1996).

^{xiii} *Schempp*, 374 U.S. at 223; *Meltzer v. Bd. of Pub. Instruction of Orange County, Fla.*, 577 F.2d 311 (5th Cir. 1978), cert. denied, 439 U.S. 1089 (1979).

^{xiv} *Schempp*, 374 U.S. at 223; *Engel v. Vitale*, 370 U.S. 421 (1962); see also *Crockett v. Sorenson*, 568 F.Supp. 1422, 1430 (D.Va. 1983) (noting use of hymns and prayer as evidence of Bible course’s unconstitutionally religious nature).

^{xv} *Stone v. Graham*, 449 U.S. 39, 42 (1980) (unlike study of Ten Commandments in constitutional Bible course, “[p]osting of religious texts on the wall serves no such educational function”).

^{xvi} *Hall v. Bd. of Sch. Comm’rs*, 656 F.2d 999 (5th Cir. 1981).

^{xvii} *Herdahl*, 933 F.Supp. at 600.

^{xviii} *Gibson v. Lee County Sch. Bd.*, 1 F.Supp.2d 1426, 1434 (M.D. Fla. 1998); *Herdahl*, 933 F.Supp. 582.

^{xix} Texas Educ. Code § 28.011(c).

^{xx} Letter of Jul. 9, 2008 from Andrew Weber, Deputy Attorney General for Legal Counsel to Don McLeroy, Chairman, Texas State Board of Education, available at <http://www.lrl.state.tx.us/scanned/archive/2008/6622.pdf>.